



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.07.1998
COM(1998) 414 final

98/0226 (SYN)
98/0227 (SYN)

Proposal for a

COUNCIL DIRECTIVE

**amending Council Directive 92/106/EEC on the establishment of common rules
for certain types of combined transport of goods between Member States**

Proposal for a

COUNCIL DIRECTIVE

**amending Council Directive 96/53/EC, laying down for certain road vehicles
circulating within the Community the maximum authorised dimensions in
national and international traffic and the maximum authorised weights in
international traffic.**

(presented by the Commission)

EXPLANATORY MEMORANDUM

1. INTRODUCTION

- 1.1 The recent growth of traffic, including freight transport in Europe has been substantial. It has been caused by structural changes in society and the economy, including EU policies of market liberalisation. International road and air transport, in particular, have high growth rates. The growth in the number of vehicles, both private cars and lorries, on the roads causes problems for the environment, makes it difficult to improve the safety of users and is a source of congestion. The European Community needs a reliable and efficient transport system to expand trade and to ensure personal mobility. This system should be sustainable from an economic, social and environmental point of view: the negative consequences of transport for people and the natural environment should be limited as far as possible.
- 1.2 To achieve this objective the Commission has developed a strategy based on the concept of sustainable mobility¹. This concept calls for an optimally integrated transport system, in which combined transport plays an important role. The promotion of combined transport requires a mix of organisational, investment, financial and regulatory measures by industry, the Member States and, where appropriate, by the Community.
- 1.3 In an integrated system, transport modes and operators compete on a fair basis, in that the user pays all the internal and external costs of the transport mode that he chooses. The operators also co-operate to form transport chains in which each mode is used for the part of the journey where it is most cost effective. That should, for a large share of all transport, lead to the use of rail, barge or maritime transport for the main part of the long distance journeys. Road haulage is in general to be used for shorter distances, including initial transport and final delivery of goods in the context of combined transport. This is a long-term goal.
- 1.4 The immediate goal of this proposal, however, is the increased use of combined transport as an alternative to the ever-expanding role for road transport. Another aim is to bring down the minimum distance in which combined transport is competitive, because certain costs (e.g. transshipment, equipment) weigh heavily on short hauls.
- 1.5 The increased competitiveness of goods transport by road compared with combined transport is partly the result of the liberalisation of road transport. Moreover, the flexibility of road haulage gives it a strong competitive position as compared with other modes. Fluctuations in demand are absorbed with less difficulty by single mode road transport. Door-to-door transport by road avoids transshipment as well as the complicated co-operation between partners needed in combined transport. Increasing the competitiveness of

¹ COM (92) 494 final, The future development of the common transport policy. Bulletin of the EC Supplement 3/93, e.g. § 38, 40.

combined transport as part of logistical systems requires not only that the price should be right, but also the quality of service; in particular reliability and punctuality must be improved. Improving the opportunities for combined transport services to be offered whenever customers see fit for their industry should stimulate the necessary improvements in quality.

1.6 The competitiveness of combined transport and hence its attraction can be improved in several ways:

- (1) *by organisational and technical improvements, where the industry has the primary responsibility.* The Community can only encourage such improvements. This has been done by PACT, i.e., through a number of pilot actions ². This pilot programme will be continued as a Community programme on the basis of a Council Regulation ³;
- (2) *by general policies that have implications for combined transport.* Firstly liberalisation of markets encourages the further development of industry, especially in rail transport. The Council adopted on 29 July 1991 Directive 91/440/EEC ⁴, which, inter alia, gives in its Article 10 access rights to railway undertakings and also to international groupings of railway undertakings to use railway infrastructure throughout the Community to carry out international combined transport operations. This policy measure is designed to give an impetus to the development of combined transport. Despite the fact that a number of Member States have not transposed article 10 of this Directive ⁵, several alliances for international combined transport have been formed. A recent initiative concerns the promotion of freight freeways ⁶ to improve international rail services, by common management of infrastructure on a whole route and granting open access to it. Another general policy, having an important impact on combined transport operations, concerns the imputation of costs to different transport modes. External costs for road transport, especially costs for exhaust pollution, noise, accidents, congestion and road damage which are not fully paid for, give the road sector an unfair competitive advantage. Establishing fair competition will require the development of charging systems where all transport operators and all modes pay for their true costs, including external costs. However, the full internalisation cannot be achieved in the short term.

² Commission Decision 93/45/EEC of 22 December 1992, OJ No L 16, 25.1.1993, p. 55.

³ See the Commission proposal for a Council Regulation concerning the granting of Community financial assistance for actions to promote combined goods transport, Communication to the Council COM (96) 335 of 24.07.1996.

⁴ OJ No L 237, 24.8.91, p.25

⁵ Reasoned opinions were sent to Spain, Italy and Luxembourg in 1997 and to France and the UK in 1998.

⁶ Communication on trans European rail freight freeways COM (97) 242 final.

Furthermore, the Commission presented a Communication on the wider concept of intermodality ⁷;

- (3) *by financial support targeted at improving its performance.* Article 3(e) of Regulation (EC) No 1107/70 ⁸, which gave Member States the possibility to give aid for the particular purpose of investment in combined transport equipment and infrastructure expired at the end of 1997. Therefore, the Commission is currently preparing the overhaul of the framework to allow Member States to give certain aid to combined transport. In the meantime, State aid schemes for combined transport are being examined on the basis of Treaty provisions, in particular articles 77 and 92(3)(c).
- (4) *by exceptions to operating restrictions and by vehicle tax rebates for road vehicles taking part in combined transport.* In Council Directive 92/106/EEC of 7 December 1992 ⁹ the Council revised the common rules for certain types of combined transport of goods between Member States, in particular to improve the conditions for the road leg of a combined transport operation. These measures can be improved, expanded and harmonised. Such improvements are at the heart of the present proposal.

1.7 In 1997, the Commission presented a report on the application of Council Directive 92/106/EEC ¹⁰. This report can be summarised as follows:

- the number of units carried in combined transport in 1994 is impressive: 7 640 000 TEU (Twenty-foot Equivalent Units), the growth from 1990 to 1994 was almost 60%;
- when expressed in tonne kilometres, however, this represents only about 5% of total road transport but equals about 23% of rail transport of cargo;
- on some routes, for example, crossing the Alps, the share of combined transport is much higher than average;
- while growth in volume has been registered, reliability and price are not yet always competitive with road transport;
- the scope of the measures taken up to now for combined transport is limited and the practical impact of these measures is small;

⁷ Communication on Intermodality and Intermodal Freight Transport in Europe (COM 243(97) of 29.05.1997

⁸ Council Regulation 1107/70, OJ No L 130, 15.6.1970, p.1, as last amended by Council Regulation (EC) 543/97, OJ No L 84, 26.3.1997, p.6.

⁹ Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States, OJ No L 368, 17.12.1992, p.38

¹⁰ Report dd. 18 July 1997 COM (97) 372 final from the Commission to the Council on the application of Council Directive 92/106/EEC.

- Member States and professional bodies have made suggestions to improve this situation, some of which can appropriately be included in a revision of Council Directive 92/106/EEC.

1.8 Some measures that are designed to promote combined transport are applied in some Member States, but not in others. The varied nature of support measures is spelt out in the "Pan European Survey on Combined Transport"¹¹.

1.9 Restrictive measures on other modes, in particular single mode road transport, are not appropriate. Reasons for this are, inter alia, the importance of road transport for the economy and the high percentage of journeys that are short distance and generally unattractive for combined transport. The promotion of combined transport does not negatively affect road haulage, but is a means of widening the choice of users of transport services by measures, which benefit also road hauliers that participate.

1.10 The above points show that measures in favour of combined transport need to be improved in order to increase their impact and to increase the market share of combined transport.

During two meetings with experts from Member States and from professional organisations the Commission outlined a new approach to promote combined transport. Reactions to this approach and the principal lines of action proposed were generally positive.

1.11 This new approach to Council Directive 92/106/EEC is presented below.

2. GENERAL AIMS OF THE TWO PROPOSALS FOR COUNCIL DIRECTIVES

2.1 The aim of these proposals is the increased use of combined transport as an alternative to the ever-expanding role for road transport.

2.2 The competitiveness of combined transport and hence its attraction can be improved in several ways. Measures that are suitable to be included in a revision of Council Directive 92/106/EEC concern initial and final road haulage as part of all types of combined transport. The following measures are proposed:

2.3

¹¹ Study published by the International Union of combined Road-Rail companies, Brussels, and the "Studiengesellschaft für den Kombinierten Verkehr, Frankfurt", March 1996. This study was carried out with the support of the Commission through the PACT programme.

- extension of the tax rebates from vehicle tax to each combined transport operation;
- lifting of weekend and similar driving restrictions for initial and final road haulage that is part of combined transport.

An amendment to Council Directive 96/53/EC is required to allow a maximum total weight of at least 44 tonnes in all Member States of the EU for the road haulage part of a combined transport operation.

3. JUSTIFICATION FOR THE COUNCIL DIRECTIVES

3.1 With regard to the principle of subsidiarity, the actions envisaged by the Community in these proposals can be analysed by answering five basic questions.

3.2 What are the objectives of the envisaged Directives in relation to the obligations of the Community?

Article 74 of the Treaty provides that Member States pursue a common transport policy. Since the White Paper of 1992 on the development of the Common Transport Policy, the creation of an efficient and sustainable transport system can be considered to be the heart of this policy. The further development of combined transport as one of the alternatives to road transport involving long haul and/or heavy traffic flows contributes to this policy goal.

3.3 What is the Community dimension of the problem and does the Community have sole responsibility for the envisaged measures?

The share of international combined transport is increasing. It is also mostly long distance. To prevent distortions of competition between the Member States, because of widely divergent rules between them, the measures proposed have to be taken at Community level.

Combined transport is also a more complex transport option than single mode transport as it includes transshipment operations and its chains often involve several operators from several countries. If Member States introduced substantially different rules on the issues for which measures are proposed in this document, this inherent disadvantage would be reinforced and combined transport would become less competitive as against road transport. Therefore only measures taken at Community level provide the effectiveness needed.

The proposals are submitted on the basis of Article 75 of the Treaty, the proposals are therefore the sole responsibility of the Community.

3.4 What is the most efficient solution taking into account the resources of the Community and the Member States?

Because many combined transport chains go through several countries, the principle that a chain is as weak as its weakest link applies: if certain rules in favour of combined transport are not applied in all States for a given route,

the total efficiency of such transports is degraded. National measures alone are not effective.

The most efficient solution is to implement the suggested measures in favour of the road leg of combined transport in the framework of Council Directive 92/106/EEC and, as far as maximum weights are concerned, by amending Council Directive 96/53/EC¹².

3.5 What means of action are available to the Community?

To achieve the necessary results, Community-wide regulatory action is needed, in the form of modification of the existing Council Directive 92/106/EEC and Council Directive 96/53/EC.

3.6 Is uniform legislation required or would a Directive be sufficient?

The two proposals take the form of Directives.

4. EXPLANATION OF INDIVIDUAL ARTICLES OF THE TWO PROPOSED COUNCIL DIRECTIVES

Amendments to Council Directive 92/106/EEC

4.1 Article 1, the definition of combined transport

It is proposed that the definition in Article 1 will follow closely the current definition of Directive 92/106/EEC.

The current wording "transport of goods between Member States" causes a problem. Taken literally, the current wording excludes transport within Member States and between an EU Member State and third countries, even when the major part of the journey is by inland waterway, short sea or rail. A wording that is closely aligned to Article 75 of the Treaty is proposed because the single transport market also includes combined transport within a single Member State. The transport of goods to or from third countries is included in the definition as well, if it fulfills the same conditions as other combined transport and thereby contributes to sustainable transport. Therefore combined transport operations which involve inland waterway, short sea or rail journeys outside the Community and an initial or final road leg within the Member States are included. As far as access to the market has been granted to such a journey, the part of it on Community territory is an integral part of the single transport market as well.

In general, combined transport should either have short distance road leg(s) or the maritime, rail or inland waterway sections shall be capable of substituting for the major part of a road transport. The limitation of the total distance by road by a percentage gives a realistic opportunity for short haul combined transport and more freedom to longer haul transport. This proportionality regardless of where a road leg

¹² Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ No 235, 17.9.96, p.59).

takes place is suitable for the single market. On the one hand combined transport policy and road hauliers don't have an interest in long initial and final hauls. On the other not all networks of terminals are dense. Considering the average distance in international rail-road combined transport of 780 km, road hauls of a little over a 150 km seem suitable. From this follows a limitation of the distance of a road leg to 20% of the voyage by another mode. In practice accompanied transport (like rolling road) will gain fewer of the advantages contained in this Directive, since the road hauls of such shipments are often a relatively long part of the total journey.

Deep-sea container transport combinations with road are excluded from the scope of application of the Directive, as this kind of intermodal transport is not a substitute for an equivalent and therefore commercially viable road transport. The same principle should apply to short distance ferry crossings. This general requirement replaces the current minimum of 100 km for the maritime section.

It is proposed to limit the scope of application and to give a Member State the possibility to extend the advantages in a more liberal way, for such (parts of) combined transport operations that take place on its territory. On the other hand, in line with Austria's Protocol of Accession to the Community (Protocol No.9, Article 1, f.) a Member State may limit the extra rights and thereby also the obligations that the amended Directive provides in case a certain road section only transits its territory.

In addition, some technical problems of the current definition of combined transport in Directive 92/106/EEC are remedied. The wording "uses the road on the initial or final leg" leads to problems, both when there is an initial and a final road leg and when other modes are combined. One could think of a combination of rail and inland waterways as an example. Therefore it is proposed to replace this quote by "and/or road". Also the word "or" in "rail or inland waterway or maritime services" is replaced by "and/or", taking into account that the inclusive "ou" in French does not exist in all languages. The solution proposed leads however to the need to add the words: "in successive sections several modes", to make sure that at least two modes are used.

4.2 Article 2 on road transport legislation

Articles 1, first sentence, Article 2 and Article 4 have to be adapted to the liberalised Community road transport market. Therefore it is proposed that they are replaced by a general reference to the relevant Community legislation on market access, admission to the occupation and other rules applicable to the transport of goods by road vehicles¹³ in a new Article 2.

4.3 Article 3 on documents

¹³ Such as Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ No 235, 17.9.96, p.59).

Currently the reference to the Regulation of 1960 on transport rates and conditions¹⁴ provides an indirect description of the document needed as proof that the criteria of Article 1 have been fulfilled. Therefore, the article on documents to prove that the journey is a combined transport operation according to Article 1 has been modernised and made generally applicable to all kinds of combined transport. Article 3 does not create new documents, but refers to combined transport documents in use by the industry provided they contain the necessary evidence concerning the route and the terminal. This could be a combined transport bill of lading or a consignment note like CIM/UIRR or the Intercontainer freight receipt.

4.4 Article 5 on reporting

The current reporting system is unsatisfactory:

- the report should be based on longer experience;
- given the development of the sector, there are today too many services to examine to examine them usefully on an individual basis;
- the way of counting swap bodies, containers (often called transport units) and vehicles is old fashioned, and
- tonnes do not allow a sound comparison with road haulage, where most transports are short distance.

Therefore a report should be made every 3 years, the number of vehicles and transport units should be expressed in twenty-foot equivalent units (TEU) and the transport operations should be expressed in tonne kilometres (tkm).

4.5 Article 6 on tax rebates

The main problem with the current provision is that in practice its application in many tax systems is limited to rolling road and currently only for the rail journey within the Member State where the road vehicle is registered. Therefore there is little impact on the development of combined transport. The current voluntary rebate to dedicated tractors requires road hauliers to be inflexible in the management of their fleet in the few countries where it is applied at all.

Article 6 is intended to extend the scope of application of the measure so that Member States are obliged to give reimbursement or reductions of certain taxes. Its scope is extended to all kinds of combined transport, in recognition of the fact that not only the railways but inland waterways and short sea shipping can also contribute to making transport sustainable. For vehicle tax only the Member State in which the vehicle is registered is to give a standard amount of rebate of the vehicle tax for each transshipment in its territory. From a taxation point of view the measure can be justified because the roads are not used for the transport of the goods for the part of the transport operation in which rail, waterway or sea are used. By virtue of the definition of combined transport, any road leg of the combined transport journey

¹⁴ Council Regulation No 11 of 27 June 1960 on transport rates and conditions, OJ No 52, 16.8.1960, p.1121/60.

has to be limited. This definition ensures that in practice the long haul has to be on rail, inland waterway or sea. Vehicles used predominantly in combined transport average 25.000 km a year on the road. They pay a disproportionate vehicle tax because vehicles used in long distance road transport drive several times as much.

As long as external costs of road transport are not fully internalised, there is also a case for improving the competitive position of combined transport through a reduction in taxation of combined transport. However, at the moment this cannot be quantified in a generally accepted way.

An acceptable amount of tax rebate would be related to the transshipment costs, because these are typical extra costs of combined transport. The transshipment costs for unaccompanied transport are presently in the range of ECU 18 to ECU 40 per unit transhipped in a typical inland terminal. In general terms the transshipment costs weight heavier on the transport price the shorter the distance of the combined transport. Therefore, if the rebate were equal to the costs of transshipment, this would have more impact the shorter the distance of the combined transport. In this way the minimum distance in which combined transport is competitive can be brought down.

As the current Directive 92/106/EEC does not cover the circulation taxes of the new Member States Austria, Finland and Sweden the first amendment of Directive 92/106/EEC should be used to update the list of taxes in Article 6.3 of the amended Directive. The user charge referred to in Council Directive 93/89/EEC¹⁵ is also mentioned in Article 6.3 of the amended Directive. A rebate of a daily rate of this user charge should be given in Member States where the charge is levied each time a combined transport terminal is used in its territory. Already 6 Eurovignette Member States (B, DK, D, L, NL, and S) have agreed to accept the granting of exemptions or reimbursements to vehicles engaged in combined transport on a voluntary basis.

In all cases the tax rebates and the rebates of user charge should be limited to the amount of the vehicle tax and user charge respectively, that would otherwise be applicable for the tractor unit or any other vehicle engaged in combined transport over a certain period of time. The administration of such a scheme would be simple; combined transport operators have lists of clients and performed operations, which could form the basis for such rebates.

An alternative to obligatory tax rebates is to extend the possibilities for Member States to give voluntary tax rebates. This path has not been followed because the Report on Directive 92/106¹⁶ demonstrates that the present tax provisions, which are voluntary except for the rail transport of taxed vehicles, have not been used in most Member States.

4.6 Article 9 bis

¹⁵ Council Directive 93/89/EEC of 25 October 1993 concerning taxes on certain vehicles and tolls and charges, OJ No L 279, 12.11.93, p.32. The European Court of Justice has annulled this Directive, but its effects have been maintained until the Council has adopted a new Directive.

¹⁶ Report dd. 18 July 1997 COM (97) 372 final from the Commission to the Council on the application of Council Directive 92/106.

Several Member States impose restrictions on heavy lorries during weekends, nights and/or holidays. Sometimes exemptions are made in favour of combined transport when rail is involved and many other exemptions already exist in those Member States. Up until now such restrictions and exemptions have been decided at national or local level, leading to organisational problems for combined transport.

The problems combined transport faces on a Sunday night provide a significant illustration. Present weekend bans often end at ten in the evening, which is too late for trains due to arrive the next morning at a factory to wait for a truck to arrive and for loading to take place. In such cases a train service cannot be made available on Sunday night. Therefore, combined transport is at a disadvantage versus road where the truck can start at ten and arrive the next morning.

The Commission has presented a proposal for a Council Directive on a transparent system of harmonised rules for restrictions on heavy goods vehicles involved in international transport on designated roads.¹⁷ Article 4 of the last mentioned proposal specifies by means of Annex I, that "Vehicles performing combined transport operations as defined in Council Directive 92/106/EEC;" shall be amongst those exempted from driving restrictions on the TEN road network which are laid down in accordance with articles 3.2, 3.4, 3.6 and 3.7 a). The present proposal for a Directive widens this exemption to other roads under specific conditions.

The proposal to exempt the initial and final road legs of combined transport from restrictions on driving at weekends, during the night, holiday periods or during periods of high pollution of the ambient air in Article 9 bis seeks to alleviate organisational problems. Making these exemptions general and mandatory will facilitate combined transport and improve the speed, regularity and reliability of this form of transport. Since the road legs of combined transport are relatively short (by definition), the overall negative impact is limited, while this measure improves the competitive position of combined transport compared to single mode road transport. The wording relates to the whole territory of the Member States.

Also, local negative environmental effects can be mitigated, as Member States will have the possibility to require that these vehicles conform with the most stringent standards for noise and pollution applicable to new vehicles. If due to heavy smog or other exceptional circumstances all private traffic is forbidden, combined transport should not be permitted either.

4.7 Amendments to Council Directive 96/53/EC.¹⁸

It is proposed to allow certain exemptions from the current rules on weights of road vehicles as specified in Council Directive 96/53/EC. Allowing in all Member States a maximum vehicle weight of 44 tonnes for road transport as part of every combined transport operation, contributes to improving the competitive position of combined transport in several ways:

¹⁷ Commission proposal COM (98) 115 of 10.03.1998

¹⁸ OJ No L 235, 17.9.1996, p. 59.

- currently this exemption only applies to the carriage of ISO 40-foot containers, which are first and foremost ocean-going containers. Combined transport will profit more when this exemption applies to all road vehicles during the road legs of combined transport whether with containers, swap bodies or rigid body. In particular 20-foot and 7 m. tank units as well as long swap bodies of up to 13,60 m. could then be operated to full capacity. These are important market segments, where the same technical considerations apply as to 40-foot ISO containers. Under the proposed legislation, transport units loaded to full capacity will not need to be unloaded before their destination in any Member State.
- transporters would know that, when they engage in all kinds of combined transport as defined in this Directive, they can count on the possibility of using 44 tonnes maximum vehicle weight throughout the whole Community;
- on the short initial or final road legs, especially, the price per tonne-kilometre is high when compared with long haul road transport. Increasing the maximum allowable weight will reduce the threshold distance, above which combined transport is competitive with road transport;
- because of the extra weight of a container or swap body, about two tonnes extra are needed to make the loading capacity of these types of combined transport units equivalent to road transport equipment;

To compensate for the possible extra road damage resulting from the 44 tonne vehicle weight, specific measures are needed. Article 1 paragraph (3) for motor vehicles with (drawbar-) trailers is accordingly consistent with an outstanding proposal of the Commission on weights of vehicles ¹⁹, whereby these vehicles need 6 axles and in general twin tyres on the driving axle and road friendly suspension.

To ensure fair treatment between 40 foot ISO containers and other transport units in the Community, Article 1 paragraph (4) allows three-axle motor vehicles with two or three-axle semi-trailers to operate at 44 tonnes gross vehicle weight. These can carry goods directly or contained in swap bodies as well as in ISO containers shorter than 40 foot.

As two axle tractors are used in many Member States, Article 1 paragraph (5) seeks to compensate for the two tonnes extra weight of a container or swap body, by allowing 42 tonnes, without leading to unavoidable overloading of axle weight limits. Such overloading could occur, if 44 tonnes were allowed in such a case.

5. CONSOLIDATION

As this is the first proposed revision of Council Directive 92/106/EEC since the consolidation of 1992, further consolidation would be premature. Council Directive 96/53/EC is also being revised for the first time since the consolidation of 1996.

¹⁹ OJ No C 38, 8.2.1994, p. 3.

6. INTEREST FOR EEA

In accordance with Article 99 of the EEA Agreement, EFTA countries have been consulted on the proposal.

Proposal for a COUNCIL DIRECTIVE No:.....

**amending Council Directive 92/106/EEC on the establishment of common rules
for certain types of combined transport of goods between Member States**

98/0226(SYN)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 and 84(2) thereof,

Having regard to the proposal from the Commission ²⁰,

Having regard to the opinion of the Economic and Social Committee ²¹,

Acting in accordance with the procedure set out in Article 189c of the Treaty, in co-operation with the European Parliament ²²,

Whereas Council Directive 92/106/EEC of 7 December 1992 on the establishment of common rules for certain types of combined transport of goods between Member States ²³, prolongs and establishes measures to encourage the development of combined transport;

Whereas the existing measures in favour of the performance and the competitive position of combined transport have insufficient impact, and should be improved to encourage the transfer of goods from road transport to modes which are more environmentally friendly, safer, more energy efficient and cause less congestion like rail, inland waterways and maritime transport for the longer part of the journey;

Whereas in conformity with the principle of proportionality as set out in Article 3 B of the Treaty, the most efficient solution to improve the competitive position of combined transport as a whole without distorting competition between the Member States is to broaden the scope of Council Directive 92/106/EEC;

Whereas it is necessary to amend the definition of combined transport to bring it into line with the scope of the Treaty and to ensure that the road section of a combined transport is as short as possible; whereas it is also needed to avoid inclusion of certain deep sea transport and short distance ferry operations in the definition of combined transport as these kinds of transport are not a substitute for road transport operations;

²⁰ COM (97).....final

²¹

²² Opinion xxxxxx

²³ OJ L 368 of 17.12.1992, p 38

Whereas combined transport uses roads less than single mode road transport because for the long haul the goods are not carried by road, reimbursements or reductions of certain taxes and charges are justified;

Whereas, in recognition of the fact that inland waterways and short sea shipping can also contribute to sustainable transport, reimbursements or reductions of certain taxes and charges should be extended to all types of combined transport operations;

Whereas Community-wide exemptions of combined transport from restrictions on driving at weekends, during the night, holiday periods and during periods of high pollution of the ambient air are justified in order to ensure the reliability and regularity of combined transport services throughout the Community and taking into account that the major part of the journey in this form of transport is covered by modes other than road and that in certain cases the vehicles used for the road leg may be required to adhere to the latest standards for noise and pollution,

HAS ADOPTED THIS DIRECTIVE:

ARTICLE 1

Council Directive 92/106/EEC is hereby amended as follows:

(1.) Article 1 is replaced by the following:

“Article 1

1. ‘Combined transport’ means the transport of goods to or from or within a Member State where the lorry, trailer, semi-trailer, with or without tractor unit, swap body or container of 20 feet or more uses in successive sections several modes of transport, among which are rail and/or inland waterway and/or maritime services and/or road, provided that:

- each individual road section shall be no more than 20% of the total kilometres of the journey by the other mode or modes mentioned,
- there is an equivalent road transport possible for the sea or inland waterway section.

2. The waterborne transport section of which more than half is unavoidable in a commercially viable transport operation, such as a deep sea shipment or a short distance ferry crossing, is excluded from the scope of application of this Directive.

3. Subject to international agreements concluded with third countries, combined transport operations that involve a voyage partly within the Community and partly within the territory of a third country or third countries are covered by this Directive.

4. A Member State may extend the rights and obligations, which derive from this Directive to all other combined transport operations as defined in its national legislation, insofar as such combined transport operations take place on its territory.

5. A Member State may limit the rights deriving from this Directive in case of a road section of over 100 km that only transits its territory."

(2.) Article 2 is replaced by the following:

"Article 2.

Except where otherwise provided in this Directive, all Community rules on access to the market and to the profession for the carriage of goods by road ²⁴ and rules applicable to the transport of goods by road vehicles shall apply to the road legs of combined transport."

(3.) Article 3 is replaced by the following:

"Article 3.

Proof that the road leg of a journey is part of combined transport has to be given on demand to the competent authorities. It shall consist of a completed combined transport bill of lading or of another combined transport document that contains evidence to show that the transport operation is carried out in conformity with the above definition of combined transport. The route, including the points where the goods are loaded or unloaded for the road section for which benefits are claimed as well as all transshipment terminals, shall be specified."

(4.) Article 4. Is deleted.

²⁴ - Council Regulation (EEC) No. 881/92 of 26 March 1992 concerning access to the market, OJ No L 95, 9.4.1992, p.1;

-Council Regulation (EEC) No.3118/93 of 25 October 1993 concerning cabotage, OJ No L 279, 12.11.93, p.1;

-Council Directive 96/26/EC of 29 April 1996 concerning admission to the occupation, OJ No L 124, 23.5.96, p.1.

(5.) In Article 5. paragraph 1. "two" is replaced by "three" and in paragraph 2. the first three indents are replaced by the following:

"- the number of vehicles, swap bodies and containers expressed in twenty-foot equivalent units."

(6.) In Article 6. paragraph 1 is replaced by the following:

"1. Member States shall take the measures necessary to ensure that the taxes and user charges mentioned in paragraph 3 which are applicable to road vehicles (lorries, tractors, trailers or semi-trailers), when engaged in combined transport as defined in Article 1, are reduced or reimbursed by a standard amount or exempted according to the following rules:

- the reduction or reimbursement of vehicle taxes referred to in the first paragraph shall be granted by the State in which the vehicle is registered at an amount of at least 18 ECU when a combined transport terminal is used in its territory;

- in case of a weekly, monthly or yearly user charge listed in paragraph 3, the Member State where this charge is paid shall grant a rebate of a daily rate of this charge on each occasion when a combined transport terminal is used in its territory;

- in case of a daily user charge, the Member State where such a charge would be due shall exempt the vehicle from this charge when a combined transport terminal is used in its territory;

- however, over a certain period of time the tax reductions or reimbursements and the rebate of the user charge shall be limited to the amount of the vehicle tax or user charge that otherwise would be applicable for the tractor unit and any other vehicle involved in the combined transport."

(7) The following indents are added to Article 6.paragraph 3:

"- Austria:

Kraftfahrzeugsteuer

- Finland

(a) Moottoriajoneuvovero

(b) Windscreen sticker tax

- Sweden

Vagtrafikskatt

- The user charges as defined in Article 2 and 7 of Directive 93/89/EEC²⁵.”

(8) The following Article 9 bis is inserted:

“Article 9 bis

1. Vehicles for the transport of goods shall be exempted from all restrictions relating to weekends, nights, public holidays and periods of high pollution of the ambient air, during the time such vehicles are engaged in combined transport as defined in Article 1.

2. However, when other road transport of goods is forbidden on certain roads in order to reduce noise, a Member State may require for the road legs carried out in its territory that vehicles exempted by paragraph 1 shall have the following limited sound level. They shall conform to the Community standard for initial entry into service of vehicles of Directive 70/157/EEC²⁶ for noise as last amended, after 5 years after a new standard becomes effective. In case of restrictions because of high pollution of the ambient air based on Directive 96/62/EEC²⁷, the standard for new vehicles of Directive 88/77/EEC²⁸ on emissions as last amended, may be required as well after 5 years after a new standard becomes effective.

3. Paragraph 1. is not applicable in case of a general driving ban, when the circulation of all vehicles used for private purposes is forbidden.”

ARTICLE 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2000. They shall immediately inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall make such a reference on the occasion of their official publication. Member States shall lay down the methods of making such a reference.

3. Member States shall communicate to the Commission the provisions of domestic law which are in force or which they adopt in the field covered by this Directive.

²⁵ Council Directive 93/89/EEC of 25 October 1993 on the application by Member States of taxes on certain vehicles used for the carriage of goods by road and tolls and charges for the use of certain infrastructures, OJ No L 279, 12.11.93, p.32.

²⁶ Council Directive 70/157/EEC of 6 February 1970, concerning permissible sound levels, OJ No L42, 23.02.1970, p16.

²⁷ Council directive 96/62/EEC on air quality.

²⁸ Council Directive 88/77/EEC of 3 December 1987 concerning emissions from diesel engines for vehicles, OJ No L 36, 09/02/1988, p.33.

ARTICLE 3

The present Directive shall enter into force on the twentieth day after its publication.

ARTICLE 4

This Directive is addressed to the Member States.

Done at Brussels,.....

For the Council,

The President

IMPACT ASSESSMENT FORM

The impact of the proposal on business with special reference to small and medium-sized enterprises

Title of the proposal:

Proposal for a Council Directive amending Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States.

Document reference number: 98007

The proposal

1. *When considering the principle of subsidiarity, why is Community legislation necessary in this area and what are the main aims?*

The proposed Community legislation is primarily based on Article 75 of the Treaty. The development of an efficient and sustainable transport system can be considered central to the common transport policy provided for in the Treaty. The adoption of the measures to develop combined transport contribute particularly to the development of sustainable transport by improving the competitiveness of combined transport as an alternative to road transport involving long haul and/or concentrated flows.

Combined transport is mostly used for long distance journeys, which frequently involve two or more Member States. Therefore, in order to ensure that compatible rules apply throughout the journey, Community legislation is needed.

The main aim of this proposal is the increased use of combined transport as an alternative to an ever expanding role for road transport. Therefore two measures are proposed. These measures concern initial and final road haulage as part of all kinds of combined transport, specifically by extension of the tax provision of Directive 92/106/EEC to allow rebates on vehicle taxes and road charges and by exempting such transport operations from weekend, night and holiday restrictions.

The impact on business

2. *Who will be effected by the proposal?*

- Users of goods transport services (shippers, forwarders) will benefit by getting more cost effective combined transport services;
- Firms operating combined transport services and participating road hauliers will benefit by reducing their costs and increasing their flexibility.

The promotion of combined transport does not negatively affect road transport, because there are no restrictive measures proposed on road transport. Road hauliers participating in combined transport benefit from the widened exemptions and increased tax rebates.

Which sizes of business are involved?

The measures will support small and medium sized enterprises as more and more SME's start to participate in combined transport. The recent experiences in the PACT programme, concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport, have shown that many such firms participate in combined transport projects.

Combined transport offers many opportunities for small niche-operators.

Road transport operators in the Community have an average of about 4,4 vehicles in operation.

3. *What will businesses have to do to comply with the proposal?*

There are no compulsory requirements for transport operators in general. Those who wish to benefit from the new advantages offered would have to prove on request of the competent authorities that the road journey is part of a combined transport and carry out combined transport in conformity with the rules laid down.

4. *What economic effects is the proposal likely to have?*

- employment

The proposal is not likely to have a substantial effect on the overall level of employment. A shift from long haul single mode road transport to pre- and end-haulage may lead to some job losses in the first sector. There will be more jobs created by combined transport operators and by terminal operators, while combined transport is the best chance for railways and inland waterways to secure jobs.

- on the competitive position of businesses

On some routes the share of combined transport probably will increase and in general the measures will help combined transport to grow. By alleviating road congestion and by reducing external costs and energy consumption, the measures will contribute to the overall improvement of the competitive position of EU businesses.

- on investment and the creation of new businesses

The proposal aims to increase the attraction of combined transport. This will lead to investments in new logistic chains and in innovative technology for telematics, terminals and transport equipment. New operators will be attracted by the increased possibilities of this market.

5. *Does the proposal contain measures to take account of the specific situation of small and medium sized firms (reduced or different requirements etc.)?*

Since there are no compulsory requirement for transport operators in general, no specific measures to this effect are envisaged.

Consultation

6. *Organisations which have been consulted concerning the proposal and summary of their main views:*

A consultation meeting was organised on the technical substance of the new proposal. The following professional organisations were present: UIRR, EIA, BIC, ICF, CCR, EPTA, IRU, ESO, CLECAT and UNICE. ECSA (the European Community Shipowners Association) was invited as well.

The reactions to the initiative and the principal lines of action were positive. However, UNICE would prefer the application of the proposed measures to all road transport in order to raise competitiveness on a world scale. The considerations to contribute with these measures to the protection of the environment were deemed less important. IRU would like to see other road transport operations to be exempted from weekend bans as well. These positions cannot be accommodated in the proposal: sustainable mobility with regard to environment, safety and resources is a key goal of the proposal. The proposal tries therefore to promote the increased use of combined transport as an alternative to an ever expanding role for road transport.

The other organisations participating in the meeting were favourably disposed towards the proposed measures, although they suggested, that the concrete application needs to be carefully considered. The participants contributed a number of ideas to improve the operational content of the measures. In most cases the Commission has taken into account the opinion of the majority of the professional organisations consulted.

Proposal for a COUNCIL DIRECTIVE No.....

amending Council Directive 96/53/EC, laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic

98/0227(SYN)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission ²⁹,

Having regard to the opinion of the Economic and Social Committee ³⁰,

Acting in accordance with the procedure set out in Article 189c of the Treaty, in co-operation with the European Parliament ³¹,

Whereas Council Directive 96/53/EC ³² prolongs and establishes measures concerning the maximum authorised weights in international traffic for certain road vehicles;

Whereas the existing measures in favour of the performance and the competitive position of combined transport have insufficient impact, and should be improved to encourage the transfer of goods from road transport to modes which are more environmentally friendly, safer, more energy efficient and cause less congestion like rail, inland waterways and maritime transport for the longer part of the journey;

Whereas in conformity with the principle of proportionality as set out in Article 3 B of the Treaty, the most efficient solution to improve the competitive position of combined transport as far as vehicle weights are concerned, without distorting competition between the Member States, is to amend Council Directive 96//53/EC;

Whereas transporters should be able to rely on the option of using a maximum authorised vehicle weight of 44 tonnes for road transport as part of a combined

²⁹ COM (97).....final

³⁰

³¹ Opinion xxxxxx

³² Council Directive 96/53/EC of 25 July 1996 laying down for certain road vehicles circulating within the Community the maximum dimensions in national and international traffic and the maximum authorised weights in international traffic (OJ No 235, 17.9.96, p.59).

transport operation involving the carriage of different transport units in the whole Community; whereas Member States can require three axle motor vehicles in this case to prevent extra road damage;

Whereas in order to compensate the extra weight of a container or swap body and at the same time in order that the use of a two axle tractor should not lead to the axle weight limits being exceeded, it is appropriate that in such a case a maximum vehicle weight of 42 tonnes should be allowed;

HAS ADOPTED THIS DIRECTIVE:

ARTICLE 1

Council Directive 96/53/EC is hereby amended as follows:

(1) The following indent is added to Article 2

“- ‘combined transport’ means the transport of goods as defined in Article 1 of Council Directive 92/106/EEC.³³ ”

(2) In Article 6.5., the second sentence is amended to read as follows:

“As regards vehicles referred to in points 2.2.1(c), 2.2.2. (c) and 2.2.2(d) of Annex 1, the entry ‘44 tonnes’ or where applicable ‘42 tonnes’ shall be included in brackets under the maximum authorised weight of the vehicle combination.”

(3) In Annex 1 a new point 2.2.1(c) is inserted:

“ 2.2.1(c) three-axle motor vehicle with three-axle trailer as part of a combined transport operation. 44 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognised as being equivalent within the Community as defined in Annex II, or where each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9,5 tonnes.”

³³ Council Directive 92/106/EEC on the establishment of common rules for certain types of combined transport of goods between Member States, OJ No L 368, 17/12/92, p.38, as amended by Council Directive No.....

(4) Annex 1, Point 2.2.2(c), is amended to read as follows:

“three-axle motor vehicle with two or three-axle semi-trailer as part of a combined transport operation

44 tonnes”

(5) In Annex I a new point 2.2.2(d) is inserted:

“2.2.2(d) two-axle motor vehicle with three-axle semi-trailer as part of a combined transport operation

42 tonnes where the driving axle is fitted with twin tyres and air suspension or suspension recognised as being equivalent within the Community as defined in Annex II, or where each driving axle is fitted with twin tyres and the maximum weight of each axle does not exceed 9,5 tonnes.”

ARTICLE 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 1 July 2000. They shall immediately inform the Commission thereof.

2. When Member States adopt these measures, they shall contain a reference to this Directive or shall make such a reference on the occasion of their official publication. Member States shall lay down the methods of making such a reference.

3. Member States shall communicate to the Commission the provisions of domestic law which are in force or which they adopt in the field covered by this Directive.

ARTICLE 3

The present Directive shall enter into force on the twentieth day after its publication.

ARTICLE 4

This Directive is addressed to the Member States.

Done at Brussels,.....

For the Council,

The President

IMPACT ASSESSMENT FORM

The impact of the proposal on business with special reference to small and medium-sized enterprises.

Title of the proposal:

Proposal for a Council Directive amending Council Directive 96/53/EC, laying down for certain road vehicles circulating within the Community the maximum authorised dimensions in national and international traffic and the maximum authorised weights in international traffic.

This Directive is only changed as far as the maximum authorised weights in combined transport operations are concerned.

Document reference number: 98009

The proposal

1. *When considering the principle of subsidiarity, why is Community legislation necessary in this area and what are the main aims?*

The proposed Community legislation is primarily based on Article 75 of the Treaty. The development of an efficient and sustainable transport system can be considered central to the common transport policy provided for in the Treaty. The adoption of the measures to develop combined transport contribute particularly to the development of sustainable transport by improving the competitiveness of combined transport as an alternative to road transport involving long haul and/or concentrated flows.

Combined transport is mostly used for long distance journeys, which frequently involve two or more Member States. Therefore, in order to ensure that compatible rules apply throughout the journey, Community legislation is needed.

Main aim of this proposal is the increased use of combined transport as an alternative to an increasing part of road transport. Therefore a measure is proposed, allowing a total maximum weight of 44 tonnes during initial and final road haulage as part of all kinds of combined transport.

The impact on business

2. *Who will be effected by the proposal?*

- Users of goods transport services (shippers, forwarders) will benefit by getting more cost effective combined transport services;
- Firms operating combined transport services and participating road hauliers will benefit by reducing their costs and increasing their flexibility.

The promotion of combined transport does not negatively affect road transport, because there are no restrictive measures proposed on road transport. Road hauliers participating in combined transport benefit from the higher weight that has to be allowed throughout the Community.

Which sizes of business are involved?

The measure will support small and medium sized enterprises as more and more SME's start to participate in combined transport. The recent experiences in the PACT programme, concerning the granting of Community financial assistance for actions of an innovative nature to promote combined transport, have shown that many such firms participate in combined transport projects.

Combined transport offers many opportunities for small niche-operators.

Road transport operators in the Community have an average of about 4,4 vehicles in operation.

3. *What will businesses have to do to comply with the proposal?*

There are no compulsory requirements for transport operators in general. Those who wish to benefit from the new advantage offered will carry out combined transport in conformity with the rules laid down.

4. *What economic effects is the proposal likely to have?*

- employment

The proposal is not likely to have a substantial effect on the overall level of employment. A shift from long haul single mode road transport to pre- and end haulage may lead to some job losses in the first sector. There will be more jobs created by combined transport operators and by terminal operators, while combined transport is the best chance for railways and inland waterways to secure jobs.

- on the competitive position of businesses

On some routes the share of combined transport probably will increase and in general the measure will help combined transport to grow. By alleviating road congestion and by reducing external costs and energy consumption, the measures will contribute to the overall improvement of the competitive position of EU businesses.

- on investment and the creation of new businesses

The proposal aims to increase the attraction of combined transport. This will lead to investments in new logistic chains and in innovative technology for telematics, terminals and transport equipment. New operators will be attracted by the increased possibilities of this market.

5. *Does the proposal contain measures to take account of the specific situation of small and medium sized firms (reduced or different requirements etc.)?*

Since there are no compulsory requirement for transport operators in general, no specific measures to this effect are envisaged.

Consultation

6. *Organisations which have been consulted concerning the proposal and summary of their main views:*

A consultation meeting was organised on the technical substance of the new proposal.

The following professional organisations were present: UIRR, EIA, BIC, ICF, CCR, EPTA, IRU, ESO, CLECAT and UNICE. ECSA (the European Community Shipowners Association) was invited as well.

The reactions to the initiative and the principal lines of action were positive. However, UNICE would prefer the application of the proposed measures to all road transport in order to raise competitiveness on a world scale. The considerations to contribute with these measures to the protection of the environment were deemed less important by this organisation. CLECAT believes that the ultimate goal should be to gradually increase the maximum weight limit to 44 tonnes for all traffic. These positions cannot be accommodated in the proposal: sustainable mobility with regard to environment, safety and resources is a key goal of the proposal. The proposal tries therefore to promote the increased use of combined transport as an alternative to an increasing part of road transport.

The other organisations participating in the meeting were favourably disposed towards the proposed measures, although they suggested, that the concrete application needs to be carefully considered. The participants contributed a number of ideas to improve the operational content of the measures. In most cases the Commission has taken into account the opinion of the majority of the professional organisations consulted.

ISSN 0254-1475

COM(98) 414 final

DOCUMENTS

EN

07 06 02

Catalogue number : CB-CO-98-425-EN-C

ISBN 92-78-37811-9

Office for Official Publications of the European Communities

L-2985 Luxembourg

